

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20526
[Redacted],)	
)	DECISION
Petitioners.)	
)	
)	
)	

On July 13, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for the taxable years 2002 through 2005 in the total amount of \$18,008.

On September 13, 2007, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission's hearing rights letter and have provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information [Redacted] that showed the taxpayers received wages while working in Idaho. The Bureau searched the Tax Commission's records and found that the taxpayers stopped filing Idaho individual income tax returns with the tax year 2001. The Bureau sent the taxpayers a letter asking about their requirement to file income tax returns for 2002 through 2005. The taxpayers did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayers did have a filing requirement for each of the years in question. The Bureau prepared income tax returns for the taxpayers and sent them a Notice of Deficiency Determination.

The taxpayers protested the Bureau's determination. They stated they did not believe they needed to file income tax returns if they did not owe tax. The Bureau explained that if their

income is above a certain level, income tax returns are required to be filed even if refunds are expected. The taxpayers stated they would file income tax returns; they just needed some additional time to gather their tax information. The taxpayers stated they would have at least one income tax return to the Bureau by October 13, 2007.

October 13 came and went without receiving a return from the taxpayers. The Bureau allowed them another 30 days to provide all the needed returns but never received any. The Bureau delved further into the Tax Commission's records and found withholding information that was provided by the taxpayers' employers. The Bureau adjusted the returns it prepared for the taxpayers and sent them a letter discussing the adjustments. The Bureau also asked the taxpayers to withdraw their appeal if they agreed with the adjustments. The taxpayers did not respond to the Bureau's letter, so the Bureau referred the matter for administrative review.

The Tax Commission reviewed the case and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond to the Tax Commission's initial letter or to its follow-up letter. Therefore, the Tax Commission decided the matter based upon the information available.

The taxpayers do not contest they received wages in the years in question. The taxpayers stated that they believed they did not owe any tax for those years. Idaho Code section 63-3030 states that every individual that has income for the taxable year in excess of the federal filing amount is required to file an Idaho income tax return. From the information available, the taxpayers' wages for each of the years easily exceeds the filing threshold; therefore, the taxpayers were required to file Idaho individual income tax returns.

The returns the Bureau prepared for 2002 and 2003 were based upon the [Redacted]. The 2004 and 2005 returns were based upon information reported [Redacted] that included W-2

Wage and Tax Statements and Forms 1099. The initial returns the Bureau prepared did not include any state withholdings. However, the Bureau later retrieved archived information from the Tax Commission's records that further verified the taxpayers' income and substantiated state withholdings from their wages. The Bureau adjusted its original returns to include the withholdings. This adjustment reduced the taxpayers' tax significantly. In fact for 2003, the addition of the withholdings produced a refund. However, because the taxpayers did not make a claim for refund within the statutory time limits of the Idaho Code, no credit or refund can be made of the 2003 refund. (See Idaho Code section 63-3072.)

In Idaho, a State Tax Commission deficiency determination is presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayers have not met their burden. However, since additional information was found, after the Notice of Deficiency Determination was issued, that more accurately reflects the taxpayers Idaho tax, it is prudent that the Tax Commission modify the Notice of Deficiency Determination to include that information.

WHEREFORE, the Notice of Deficiency Determination dated July 13, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$ 43	\$ 11	\$ 14	\$ 68
2003	0	0	0	0
2004	738	185	151	1,074
2005	2,369	592	343	<u>3,304</u>
			TOTAL DUE	<u>\$4,446</u>

Interest is computed to June 15, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.